

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

CHRISTOPHER SMITH,	:	Case No. 1:12-cv-425
	:	
Petitioner,	:	Judge Timothy S. Black
	:	
vs.	:	Magistrate Judge Michael R. Merz
	:	
WARDEN, Toledo Correctional	:	
Institution,	:	
	:	
Respondent.	:	

ORDER TO RESPONDENT TO SUBMIT RESPONSE AND DOCUMENTS

On April 13, 2020, Respondent filed a response in opposition to Petitioner’s most recent emergency motion. (Doc. 136). In the response, Respondent asserts that:

“[Petitioner] was released by Respondent pursuant to this Court’s order of unconditional habeas relief. [Petitioner] was then rearrested under the authority of a state court issued order.” (*Id.* at 3) (emphasis added).

In support of the response, Respondent also attached the following: (1) a Release Notice dated April 10, 2020; (2) a document captioned, “Certificate of Removal,” signed by the Hamilton County Prosecutor, and which appears to seek the issuance of a warrant; and (3) a state court’s order captioned “Entry Authorizing [TCI] to Turn Over Custody of [Petitioner] to Hamilton County Sheriff,” which orders that Petitioner be turned over to the Hamilton County Sheriff’s Office.¹

¹ The State Court’s Order appears to serve the purpose of a writ of habeas corpus ad prosequendum. However, the State Court’s Order does not expressly authorize Respondent to hold Petitioner for any length of time absent a valid basis for his continued custody.

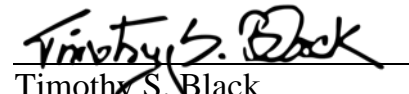
Thus, Respondent has yet to provide this Court with a valid arrest warrant, indicating that there was an independent basis upon which to continue Petitioner's detention, after this Court issued the Unconditional Writ, invalidating the underlying conviction and ordering Petitioner's immediate release.

The Court therefore **ORDERS** that, no later than 10:00 a.m. on April 15, 2020:

1. Respondent's counsel shall file a verified statement, answering YES or NO, whether an arrest warrant was issued against and executed upon Petitioner, after this Court issued its Unconditional Writ, and upon which Petitioner's continued detention was based;
2. If such an arrest warrant was issued and executed, Respondent's counsel shall obtain and file a copy of the arrest warrant as originally issued, as well as a copy of the returned, executed arrest warrant; and
3. In the event that no arrest warrant was issued, Respondent shall provide a sworn affidavit, indicating any and all specific information and documentation upon which he relied as a basis to continue holding Petitioner after the issuance of this Court's Unconditional Writ.

IT IS SO ORDERED.

Date: April 14, 2020


Timothy S. Black
United States District Judge